IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 11707 of 2004

Between:

Vuyyuru Gopi Reddy S/o. Bapireddy
R/o. Nidamarru Village Mangalagiri Mandal Guntur District.

..... PETITIONER

AND

1.The Person-in-Management of Sri Anjaneyaswamy Temple,

Nidamarru Village, Mangalagiri Group of Temples, Mangalagiri

Town and Mandal, Guntur District.
2.The Asst. Commissioner of Endowments Dept, Guntur
3.The Regional Joint Commissioner of Endowments Dept.,

Tirupathi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other writ, order or direction, particularly in the nature of a writ, to call for the records pertaining to the order dated 31.5.2004 passed in I.A No.26/2003 and Appeal No.47/2003 from the file of the 3rd respondent and to quash the same and further direct the 3rd respondent to restore the said proceedings.

Counsel for the Petitioner: MR.G.PEDDA BABU

Counsel for the Respondent No.1: Mrs.N Indrani, SC for Endowments

Counsel for the Respondents 2 & 3: GP FOR ENDOWMENTS

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the first respondent and learned Government Pleader for the respondents 2 and 3.

The petitioner claims to be the cultivating tenant in respect of Ac.5.00 of dry land situated in Survey Number 408 of Nidamarru village, Mangalagiri Mandal, Guntur district belonging to Sri Anjaneya Swamy Temple. His claim is that the petitioner and his sons have partitioned their properties including the leasehold lands, by virtue of which the petitioner as well as his sons are all small farmers being in possession of small extents of land. While so, by virtue of notice dated 14-04-2003 issued by the first respondent under Section 82(1) of A.P. Charitable and Hindu Religious Institutions and Endowments Act No. 30 of 1987, the lease in favour of the petitioner was terminated. The petitioner made a claim that he is a landless poor person. However, his claim was rejected by the Assistant Commissioner of Endowments, Guntur by proceedings dated 30-07-2003. Aggrieved by the said proceedings, the petitioner preferred Appeal before the Regional Joint Commissioner, Endowments Department, Tirupati. The said Appeal was dismissed for default on 19-11-2003 on the ground that when the matter was posted for hearing, the parties were called absent and there was no representation. Immediately thereafter, the petitioner moved an application for restoration of the Appeal. The said application was allowed on 13-01-2004. However, the Appellate Authority proceeded with hearing of the appeal in the absence of the petitioner and disposed of the same on 31-5-2004 holding that there are no valid grounds to hold that he is a landless poor person. That part, the Appellate Authority has also directed

the petitioner to deposit a sum of Rs.23,000/- towards damages as sought by the Person-in-management of the Temple on the ground that the said amount was secured in the public auction in respect of the land in question. Aggrieved by the said order, dated 31-05-2004 of the Appellate Authority, the present Writ Petition is filed.

The contention raised by the petitioner is that after restoring the appeal, the Appellate Authority ought to have disposed of the appeal on merits after affording reasonable opportunity to the petitioner. It is also contended that the order of Appellate Authority directing the petitioner to deposit a sum of Rs.23,000/- towards damages without affording any opportunity to oppose the said claim of the temple is arbitrary and illegal.

Though several contentions have been raised on behalf of the petitioner to substantiate his claim that he is a landless poor person, I am not inclined to express any opinion on the said plea. Admittedly, the Appeal was disposed of without hearing the petitioner. The specific plea of the petitioner is that he had no notice about the hearing of the Appeal. In the impugned order, it was recorded that on 13-01-2004 on which date the Appeal was posted, the petitioner did not attend the proceedings. The petitioner states that 13-01-2004 was a public holiday for 'Bogi'. It is also pertinent to note that whereas the last date of hearing was 13-01-2004, the order was passed on 31-05-2004. If that be so, having kept the proceedings pending for a further period of four months, the Appellate Authority is not justified in deciding the Appeal without hearing the appellant / petitioner. In the circumstances, I deem it appropriate to set aside the impugned order and to direct the Appellate Authority to reconsider the Appeal afresh on merits after hearing the petitioner with regard to his claim and to pass appropriate orders in accordance with Law. However, learned Standing Counsel appearing for the first respondent Temple submits that the petitioner is deliberately avoiding the proceedings before the Appellate Authority. To avoid any such delay in concluding the proceedings, there shall be a direction to both the parties to appear before the 3rd respondent - Regional Joint Commissioner on 9-08-2004 and both the parties shall cooperate for expeditious disposal of the Appeal. It is made clear that if the said date is not convenient for the Appellate Authority, it is open for him to fix any other suitable date with notice to the parties and the Appeal shall be disposed of as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order.

Accordingly, the impugned order dated 31-05-2004 is set aside and the Writ Petition is disposed of subject to the above direction. No order as to costs.

21st JULY 2004

BSS/GBS

Note: CC by Monday

(BO)

BSS/GBS

To

1.The Person-in-Management of Sri Anjaneyaswamy Temple,

Nidamarru Village, Mangalagiri Group of Temples, Mangalagiri

Town and Mandal, Guntur District.
2.The Asst. Commissioner of Endowments Department, Guntur
3.The Regional Joint Commissioner of Endowments Department,

Tirupathi, Chittoor District.

4.2CCs to G.P. for Endowments, High Court buildings, Hyderabad

(OUT)

5.2CD copies

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